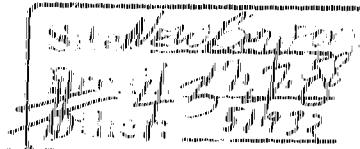




UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



REGION I

J. F. KENNEDY FEDERAL BUILDING, BOSTON, MASSACHUSETTS 02203

RECEIVED

January 26, 1983

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Mr. John J. Hannon
Massachusetts Division of
Waterways
1-11 Winter Street
Boston, Massachusetts 02110

OFFICE OF THE SECRETARY OF
ENVIRONMENTAL AFFAIRS

Dear Mr. Hannon:

As you have requested, EPA has reviewed the Draft Environmental Impact Report (DEIR) for the proposed Waterfront Park in New Bedford, Massachusetts.

According to the DEIR, the Massachusetts Division of Waterways proposes the construction of a Waterfront Park in a small cove on the west bank of the Acushnet River. The project would involve the immediate construction of a perimeter dike and roadway across the mouth of the cove, parking for 50 cars, two boat ramps, and a six acre picnic area. Long range plans for the site include the provision of a major multisport complex, with an 8,000 seat stadium, baseball diamonds, basketball and tennis courts, bandstands, a sailing area for children in an enclosed pond, an expanded boat launching facility and parking for 1,000 cars.

The DEIR also gives preliminary consideration to the additional use of the site as a disposal area for PCB-and metal-contaminated dredged material from New Bedford Harbor.

The project would involve the filling of 2.7 acres of saltmarsh, 7.6 acres of regularly exposed tidal flats and 14.4 acres of shallow water or irregularly exposed tidal flats. Construction of the perimeter dike for the roadway across the mouth of the cove would require the dredging and ultimate disposal of material highly contaminated with PCBs and metals.

In general, the DEIR is not clear about what project is actually being proposed at the present time. On the one hand, it states that the presently proposed action does not include the use of the site for disposal of contaminated dredged material. It also states that filling the cove for creation of a waterfront park is not the recommended alternative but that if the site is used for disposal of contaminated material, "creation of a park as a secondary use would provide many benefits".

Assuming, however, that the project involves at least some dredging and disposal of PCB-contaminated sediments as well as the filling of the cove, EPA's role would be three-fold. First, as you may know, New Bedford Harbor is on the national priority list of sites under the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund) due to the presence of high levels of PCBs in harbor sediments. The designation of New Bedford Harbor as a Superfund site means that some type of remedial action may be needed and that a remedial investigation is required to determine the actual

degree of danger to the public and the environment. A feasibility study, which is scheduled to start this spring, will examine site specific remedial alternatives for New Bedford Harbor. In view of the fact that the Waterfront Park project would involve at a minimum dredging and disposal of some highly contaminated material and that the site may also serve as a disposal area for materials dredged for remedial actions, we believe it is important that all activities relating to the site be coordinated with the overall plan for remedial activities, and that a decision on the project should await completion of the Superfund feasibility study.

Secondly, the project could involve two activities subject to regulation under the Toxic Substances Control Act (TSCA): the excavation of PCB-contaminated material for the perimeter road construction, and the use of the area behind the perimeter road as a depository for PCB-contaminated dredged material from New Bedford Harbor. TSCA regulations (40 CFR Part 761) are applicable to all materials containing PCBs at concentrations of 50 parts per million (ppm) or greater. The PCB data in the DEIR conflicts with recent data collected by the U.S. Coast Guard which indicate that surface sediments in the cove are highly contaminated with PCBs (50-400 ppm). One possible reason for the low results presented in the DEIR is that the top 15 inches of the consultant's cove sample were apparently mixed and analyzed as one sample. By integrating 0-15 inches, the concentrations are most likely being diluted. As a result, we believe the area is poorly characterized in the DEIR, and a more thorough sampling protocol is required. It also should be noted that TSCA regulations do not allow for mixing of high concentration PCB material with low concentration or PCB-free material to obtain a mixture of less than 50 ppm, thereby avoiding being subject to the regulation.

Under the provisions of the TSCA regulations (Section 761.60(a)(5)), all dredged materials that contain 50 ppm or greater of PCBs shall be disposed of: 1) in an incinerator which complies with Section 761.70; 2) in a chemical waste landfill which complies with Section 761.75; or, 3) upon application, using a disposal method to be approved by the EPA Regional Administrator.

In the latter option, the application, which must be made in writing to the Regional Administrator, must show why, based on technical, environmental and economic considerations, disposal in an incinerator or chemical waste landfill is not reasonable and appropriate, and that the alternative disposal method being proposed will provide adequate protection to health and the environment. Any approval by the Regional Administrator may contain appropriate conditions, for example, a requirement for treatment of dredged material supernatant. Further, the TSCA regulations require that any person who plans to dispose of PCBs under the Regional Administrator's approval must give written notice to state and local governments at least 30 days prior to conducting the disposal activities.

The third area of EPA involvement in the project would be our review of the application to the Corps of Engineers for a permit under Section 404 of the Clean Water Act for placement of dredged or fill material in waters of the U.S. We review 404 permit applications to evaluate compliance with EPA's Guidelines issued under Section 404(b)(1). These Guidelines contain four restrictions on projects, each of which have to be met: 1) there must be no

practicable alternative which would have less adverse impacts on the aquatic environment; 2) the project must not cause or contribute to significant degradation of the aquatic environment; 3) the project must not cause or contribute to violations of applicable state water quality standards or jeopardize an endangered species; and 4) the project must include all practicable and appropriate measures to minimize adverse impacts.

Based on our review of the DEIR, we believe that before the project proceeds, additional information on: the levels of contamination at the site, alternative methods to reduce or eliminate public health and environmental impacts both during and after construction, and alternative sites for recreational development and for disposal of contaminated material. And, as discussed above, we believe that all activities proposed at the site should be coordinated with the Superfund remedial actions to be studied in the feasibility study beginning this spring.

Additional comments are attached to this letter.

If you wish to discuss this further, or if EPA can assist you in any way, please give me a call at 223-1740.

Sincerely yours,



Elizabeth A. Higgins
Environmental Review Coordinator

cc: Samuel Mygatt, BOEA
William Lawless, COE

ADDITIONAL COMMENTS
BY EPA
ON
DRAFT ENVIRONMENTAL IMPACT REPORT
ON
NEW BEDFORD WATERFRONT PARK

1. Conditions at the Site

As stated in the cover letter, we believe the DEIR contains insufficient information on the chemical quality of sediments at the site. The data presented in the DEIR are contrary to recent Coast Guard data which indicate levels of PCBs in the range of 50 to 400 ppm. The reason for the low results presented in the DEIR was probably due to the fact that the top 15 inches of the cove sampled was mixed, thereby diluting the pollutants. We suggest that the top one to three inches should have been analyzed separately, followed by 4-6 inches and possibly 8-12 inches. In general, we believe a more thorough sampling protocol is necessary to fully characterize the area, and we would be pleased to assist you in working out a sampling program.

2. Impacts during construction

Construction activities at the site, including dredging, are likely to result in disturbing, resuspending, and transporting contaminated sediments into the Acushnet River. In addition, the potential exists for PCBs to become airborne. We believe additional information should be developed on alternative special handling methods to minimize or prevent the release of contaminants, as well as provisions to monitor the operation.

In addition, more thorough consideration should be given to the comparative advantages and disadvantages of alternative dredging techniques (hydraulic and mechanical) with regard to impacts to water quality, navigation, marine fisheries and disposal site containment volume. The FEIR should also assess in more detail alternative treatment technologies for dredged material supernatant.

3. Alternatives considerations

The DEIR assumes that all of the recreational facilities must be built at a single large site on the waterfront, and thus concludes that the proposed cove site is the only one available. It is not clear why this is the case and we therefore suggest that the FEIR examine the alternative of building recreation facilities at several separate locations. This analysis should, in our opinion, include: building the multi-use stadium and other recreation facilities at other locations either upland or on the waterfront, which might include sites north of the North Terminal and in the vicinity of Popes Island. In addition, the alternative of building boat launching ramps at locations which do not require the filling and/or dredging of saltmarsh and mudflat areas should be examined.

The placement of boat ramps at the proposed site would increase boaters' exposure to PCB-contaminated sediments, water, fish and shellfish, as well as increase the resuspension and movement of contaminants through motor and boat wake effects. Part II of the Scope of Work for the EIR recognized this concern and required its consideration but we note that the DEIR falls short in this regard. Also, we do not believe the DEIR gives sufficient attention to the potential conflicts between the use of the site as both a recreation area and a contaminated material disposal site. This dual use must, in our view, be studied extremely carefully to ensure that public health can be adequately protected.